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THE PSYCHICAL STATUS AND CRIMINAL  
RESPONSIBILITY OF THE TOTALLY  
UNEDUCATED DEAF AND DUMB.<sup>1</sup>

BY

ISAAC LEWIS PEET, A. M.,

PRINCIPAL OF THE NEW YORK INSTITUTION FOR THE INSTRUCTION OF THE DEAF  
AND DUMB.

Nec ratione docere ulla suadereque surdis  
Quid sit opus facto, facile est; neque enim paterentur  
Nec ratione ulla sibi ferrent amplius auris  
Vocis inauditos sonitus obtundere frustra.

LUCRETIVS, *De Rerum Natura*, Book V., 1052-5.

THE deaf-mute, as distinguished from one who is simply mute, is a person who, from the mere fact of want of hearing, does not possess the ability to express thought in articulate speech. Dwelling in a world of silence, sound awakens no responsive echo in his soul. Words which, thrilling nerves that excite the brain to action, call for an effort at least of imitation on the part of the child endowed with hearing,

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affect in him no sense that may be said to produce their counterpart. As the eye is wanting to the denizens of those subterranean localities into which light does not penetrate; as limbs are not furnished to beings whose locomotion is confined to a liquid *habitat*; and as the hand is denied to those orders of the animal creation to whose functions that marvellous instrument is not indispensable, so, where there has been no hearing, there is no natural voluntary exercise of the corresponding faculty of speech. This does not imply, what is indeed in most cases contrary to the fact, that the physical organs of speech are defective, for, if the deaf-mute could be invested with hearing, speech would soon follow, and many that have never heard, have been so educated in the use of these organs as to be able to pronounce syllables and words in a manner recognizable by the ear. The mute who is not deaf, however, owes his infirmity to one of two causes: either there is malformation or weakness in some one of the parts on which vocal utterance depends, or there exists a want of vigor in one or more of the intellectual powers, even supposing such powers not to be entirely wanting. Of those mute from the first-mentioned cause, *two* have been brought directly under my own personal observation and instruction. One was a boy twelve years of age, who had been accustomed to hear, and hear perfectly, the conversation of those around him, and who could answer a great variety of questions which could be satisfied by an affirmative or negative movement of the head, and could obey directions given to him with the voice, but had never himself uttered a word. The malformation of his organs of speech was patent to the slightest inspection. He could not, when he entered the institution, read or write, but, after several years of patient instruction, was brought to a point where he could derive information from books, and express his thoughts and feelings with the pen. Without a natural defect of verbal memory, it was yet evident that this faculty had been greatly impaired by want of the ability to give expression to the words he knew; for it was a long time after he had learned to write single words from vocal dictation before he could retain a sentence of even moderate length so as to reproduce it. His other faculties



were very much quickened by the use, on his own part, of signs, which he readily learned. Of course it was necessary to explain to him every form of expression he had not heard before. This was done partly by means of spoken words and partly by gestures, which he seemed to comprehend the more readily from the fact that, in the society of deaf-mutes in which he was necessarily placed, he acquired a great facility in expressing himself in that way. In his case, the power seemed to be developed of comprehending more perfectly what was communicated by the method to which he himself naturally had recourse when communicating his ideas to others.

The other case was that of a young man eighteen years of age, also mute from birth. He entered the institution entirely illiterate, never having learned the alphabet in either its printed or written form. He had great self-respect, always attired himself neatly, and appeared to advantage in the silent intercourse he had with others. He had for some years worked in a woollen factory, and was able to support himself without assistance from his friends. In the single year he was under instruction, he acquired an ability to read understandingly, as well as to give correctly in writing the incidents of every-day life, so that on returning to his manual labors he was in possession of a very satisfactory means of communication with others. Unlike the lad first mentioned, he must all the while have had a mental speech fully up to the necessities of the society in which he was accustomed to move. The language of signs was not used in his instruction, and he seemed to feel no inclination to avail himself of it. No impediment of speech was apparent to the eye—his inability being probably the result of some imperfection in the larynx.

The writer's own experience of nearly thirty years, however, enables him to add his testimony to that of other instructors of the deaf and dumb, to the effect that cases of hearing-mutes, with good intellectual capacities like those just mentioned, are so rare as to make the possession of hearing in connection with want of speech *prima facie* evidence of mental imbecility. Instances of this last kind are unfor-

unately very numerous. Hardly a year passes that several such mutes are not presented for admission into institutions for the deaf and dumb by parents, whom hope had directed thither, to find that the calamity which had befallen their children was one far more deplorable than that of mere inability to enunciate words, as it also is of mere inability to hear them, notwithstanding all that this last-named condition involves. The active part which those connected with institutions for the deaf and dumb have taken in the initiation of idiot asylums, and the frequent occasion they have for correspondence with their managers, is thus accounted for. With beings such as these, patient effort to call into exercise a dormant will, and gradually to develop enfeebled faculties, has met with some degree of success, and, if I am correctly informed, some have been enabled to attain intelligent vocal utterance. But the greater proportion are incapable of appreciable benefit, so that our idiot asylums, so far as they prove themselves schools, must be regarded in the light of institutions wherein only those children can be benefited who are not so far demented as to be incapable of speech.

No such proposition can be entertained with regard to the deaf-mute. His defects are not primary, as appertaining to the mind; but secondary, as the resultants of the deprivation of one of the senses. The only class of ideas to the perception of which he may not arrive are those which are dependent in themselves, considered upon the sense of hearing, though the vibrations which affect other nerves than the auditory may produce sensations so analogous that he may be considered, so to speak, as under the influence of the penumbra rather than that of the total eclipse, or perhaps more appropriately under the faint refraction called twilight instead of the full light of day. For instance, the *drum* will at once attract the attention of any deaf-mute, however profound his deafness, and the idea of musical *time* is appreciable by the majority of this class. Experiment has shown that the telegraph alphabet of Morse, beaten on the drum, on the principle of a single strong-beat for the short dash, and a quick double-beat for the long one, gives rise to vibrations affecting the deaf so distinctly, that a class of such per-



sons, with their faces so turned that they could not catch sight of the instrument, have recognized words spelled by this means, and written them promptly and accurately upon the black-board; and, in at least two instances, deaf-mute young ladies, without a particle of hearing, have been taught to render correctly, on the piano, strains of music represented to the eye by notes.

It will thus be seen that, like the Parian marble in which the mind of a Praxiteles sees the perfect statue, and from which, with cunning hand, he develops the realization of his ideal, or the rude mass of iron in which the master-artisan perceives, and from which he evokes the moving, almost breathing machine, the uneducated deaf-mute is a being of great possibilities, but still only possibilities.

His condition is a field on which Psychology gazes with interest as intense as that with which Newton viewed the starry firmament, and in which he seeks the solution of questions more difficult than those which the geologist asks the rocks.

Are there innate ideas? Is thought possible without words? Is the idea of God inseparable from the human mind? Is conscience an innate or an acquired faculty? Is moral responsibility a principle applicable to those who, possessing mental and moral powers, are yet so restrained in their exercise that they are but very imperfectly developed? Such are a few of the inquiries which spontaneously suggest themselves in connection with this subject, and which will necessarily be touched upon, if not fully discussed, as we attempt its development.

The term *uneducated*, as applied to a deaf-mute, is not to be understood as implying merely the absence of training in verbal language, but of all successful attempts on the part of those around him to make available to him the observation and experience of others, and to fix in his mind general principles of thought and action.

Considered in this light, what is he? Is he an intellectual being, and, if so, in what sense? Though the current thought of the community in which he dwells finds no access to his mind, though the language which conveys to the hearing

child of three or four years of age the germs of all subsequent knowledge is unheard and unheeded, he possesses a certain degree of mental power which is entirely independent of such conditions.

This is not confined to that recognition of forms, and that association of recognized objects with qualities, and of actions with resulting sensations, in which many of the brute creation show such a degree of intellectual power as to make it difficult to fix the boundary between what we call instinct and reason; for, though many of the mental phenomena presented by deaf-mutes are merely a higher development of what is usually regarded in the light of animal instinct, as exemplified by the chicken that runs to covert when the wing of the hawk sweeps the sky, by the bee that flies in the face of the nearest stranger when the hive is disturbed, or by the dog that runs in the direction indicated by the finger of his master, still the higher possibilities of the heir of human reason soon manifest themselves.

Perhaps the first evident token of a reason higher than that of the highest of the mere animal creation, is the ability to designate specifically the object of desire, when that object is not in sight, and to complain specifically of wrong done when the author of that wrong is not present. Many of the inferior animals can manifest their desire for some object which they can designate when it is present, and some can exhibit indignation against those who have wronged themselves or their masters when they see the wrong-doer before them, but it is an exclusively human prerogative to be able to designate the *absent* intelligibly to others, and a yet higher prerogative to be able to designate the kind of wrong or the kind of benefit received at a time past. The dog who barks furiously at the man who struck him yesterday was never known to *indicate* purposely whether he was struck with a stick or a stone, whether in the head or the foot.

We may assume, then, that the starting-point of human intellect, as distinguished from animal instinct, is the use of *signs* to designate absent persons, objects, places, qualities, and actions. For the child who hears, these signs are very early supplied by the spoken words constantly ringing in his ears. For the deaf-mute, they must be visible signs.



When, therefore, a deaf-mute child has become able to designate whether he wants this thing or that, neither being in sight, or to tell what was taken from him and who took it, he has evidently ascended above the domain of mere animal instinct. The intelligent use of signs for ideas, furnished by gesture and expression, is as much a test of the possession of human reason as the intelligent use of the verbal signs which we call speech.

There are deaf-mutes whose sign-dialect is very rude and meagre, and there are deaf-mutes equally ignorant of verbal language who yet possess quite an extensive and well-developed system of signs. The difference is only in degree.

As, in the scanty dialect of a tribe of savages, we recognize the human power of speech, so in a very moderate ability to use signs on recalling the absent and the past, we recognize those germs of human intellect, which may develop into the multiform bloom of a cultivated language of gesture and expression.

That man is proved to be man only by the possession of a language, is a received axiom. That this language or means of communication may be addressed to other senses than the ear, all intelligent men will admit. But the corollary that this language, the possession of which stamps its possessor as a rational being, may be simply a language of gesture, movement, and expression, without any hint of words spoken or written, is apprehended with difficulty by many men even of high intellectual cultivation. And yet this is equally demonstrable by facts and analogies.

It is very true that the processes of mental development, by speech and by a language of gestures, are not parallel—cannot, in fact, be made to run parallel. The great prerogative of the *one* is its power of generalizing and concentrating thought. The *other* owes to the pantomime which forms its basis, supplies its elements, and gives it much of its self-interpreting power, a certain pictorial character. Hence it is more graphic, and, for the class of material ideas, more precise. But, naturally dealing with the concrete and the actual, it grasps generalizations, abstractions, hypotheses, and personifications with difficulty, and attains to their full expression only after

long and diligent cultivation, under the auspices of minds trained by the aid of verbal language. The great difference apparent in the mental and moral condition of uneducated deaf-mutes who were probably originally of equal mental capacity, is due to the fact that the ignorance, stiffness, and prejudices, of many of the connections and natural guardians of deaf-mute children have operated to induce them to repel, rather than encourage and aid, the instinctive efforts of the deaf-mute to make his wants and wishes known by signs. Hence it is that a deaf-mute child placed in such discouraging circumstances begins to talk by signs much later, and develops much less ability to communicate in that way than another deaf-mute child who is surrounded by intelligent and sympathizing friends, especially where there is already, in the family, some knowledge of the mode of communicating with the deaf by gestures and pantomime. Thus it is that, where there are two or more deaf-mutes in the same family or neighborhood, they usually possess a much more expanded dialect of signs than that which a solitary mute may be able to devise, and, as will be easily inferred, their social enjoyments are much greater, and their intelligence, being so much earlier and more constantly called into play, is much more fully developed.

In cases of extreme neglect, the deaf-mute may seem hardly superior to an idiot. But the capacity for development still remains, often to a somewhat late period of life, though, of course, faculties left so long in total inaction become more and more torpid with advancing years.

Cases of such extreme neglect are not now very common. The magnetic sympathy of mind with kindred mind penetrates the barriers interposed by closing the usual channels of sense, and it is seldom, indeed, that the deaf-mute is not blessed with at least one or two companions who, finding the ear-gate closed, will aid him to make more straight and easy the path to communion of souls through one or more unaccustomed portals.

A few years since, there died in Scotland a very old man bearing the name of James Mitchell, a name he himself had never learned to utter, or write, or spell. He had never heard



the *voice*—never looked on the *face* of man or woman. Yet, though deaf and blind from birth, he gave evident proofs of the possession of human faculties, and by means of signs could make his wants known with considerable particularity to the one or two accustomed to communicate with him, and could receive and follow out directions addressed to the sense of touch to an extent which may seem incredible to those who have not investigated the ability of the human soul to supply senses that are wanting, by the cultivation of those that remain. Had he been so fortunate as to meet a Howe or Hirzel in his plastic youth, he might have attained to a mental and moral cultivation perhaps not inferior to those which have rendered Laura Bridgman and James Edward Meystic the marvels of the world.

You will probably recollect that Blackstone, that oracle of the English common law, while admitting that ordinary deaf-mutes may manifest their wishes by signs, holds that one deaf, dumb, and blind from birth, must necessarily be in the condition of an idiot. But those who have investigated such cases as that of James Mitchell are aware that the germs of a sign-language possessed by him are capable of being developed, as was done in the case of Julia Brace at Hartford, so as to furnish a medium for all necessary communications. Even with the deaf, dumb, and blind, where there are human faculties, the difficulties that prevent their development and cultivation may leave the individual low down in the scale of intelligence, but still far above the idiot or the mere animal.

It is painful to recall the judgments that in former times have been passed on the uneducated deaf-mute. There are few but have heard of that man of saintly and self-sacrificing benevolence, the Abbé de l'Epée, who devoted his life and his fortune to the melioration of the lot of the deaf and dumb, and to whose zeal and labors it is in large measure due that education became possible to more than a favored few of that afflicted class. This good man was accustomed to speak of the uneducated deaf and dumb as being on a level with the beasts that perish. His world-renowned disciple and successor, Abbé Sicard, declares that "a deaf person is a perfect cipher, a living automaton. He possesses not even that sure

instinct by which the animal creation is guided. He is alone in Nature, with no possible exercise of his intellectual faculties, which remain without action. As to morals, he does not even suspect their existence. The moral world has no being for him, and virtues and vices are without reality."

Other eminent teachers have put forth opinions equally derogatory. M. Guyot, of Groningen, one of the names that shine the brightest among the early benefactors of the deaf and dumb, assures us that "this unfortunate class are by Nature cut off from the exercise of reason; they are, in every respect, like infants, and, if left to themselves, will be so always, only that they possess greater strength, and their passions, unrestrained by rule or law, are more violent, assimilating them rather to beasts than men."

An eminent German teacher, Herr Eschke, of Berlin, says: "The deaf and dumb live only for themselves. They acknowledge no social bond; they have no notion of virtue. Whatever they may do, we can impute their conduct to them, neither for good nor for evil."

Another German teacher, Herr Caesar, of the school at Leipsic, founded by the celebrated Heinicke, the father of the German method of instruction, remarks that "the deaf and dumb, indeed, possess the human form, but this is almost all which they have in common with other men. The perpetual sport of impressions made upon them by external things, and of the passions which spring up in their own souls, they comprehend neither law nor duty, neither justice nor injustice, neither good nor evil; virtue and vice are to them as if they were not."

Dr. Barnard, to whom I am indebted for these citations, very justly and pertinently remarks that many of these instructors brought to their task the prejudices once universal, and not yet extinct, which classed deaf-mutes among idiots. They seem, moreover, to have been unconsciously influenced by a desire to exaggerate the sad condition of the uneducated mute, so as to make a stronger appeal to public sympathy, and to set in a brighter light the success of their own labors by contrast with the dark condition of the being whose education they had undertaken.



There are not wanting testimonies on the other side of the question. I will here only cite that of M. Bébien, a younger associate of Sicard, in the institution at Paris, and the most able and accomplished teacher of deaf-mutes in his time. His opinion is thus expressed: "Deaf and dumb persons only differ from other men by the privation of a single sense. They judge, they reason, they reflect. And, if education exhibits them to us in the full exercise of intelligence, it is because the instructor has received them at the hand of Nature, endowed with all the intellectual faculties."

To reconcile these conflicting opinions of eminent authorities, we must recall the fact already stated, that there is an immense difference, both mental and moral, between a deaf-mute who has been neglected, and possibly hidden away from society as a family disgrace (a treatment not unusual in the times before the zeal and success of De l'Épée made deaf-mutes objects of curiosity, attention, and wonder), and a deaf-mute who has been blessed with kind companions and has been encouraged and aided to enlarge and improve his pantomimic dialect. In a deaf-mute in the *former* condition, even the germs of the rational and moral faculties are scarcely manifested. In the latter, they have acquired a very considerable but somewhat peculiar development.

In treating of the psychological condition of the uneducated deaf-mute, we will take one of the average condition of the class—neither a victim of total neglect in childhood, nor the favored recipient of unusually kind, constant, and intelligent care. And here we must distinguish between what he is intellectually and what he is morally. By the effort to communicate his most obvious wants, and to bring himself into association with others, and by the reciprocal effect of attention to these wants, and of response to his overtures, his mind is quickened into activity. The signs that spring up in his intercourse with his family may refer to all the more obvious interests of their mutual every-day life. He may be told to bring water from the spring, to call his father or brother, even to go to the store for certain articles. He may be told that the family will go to church after sleeping once, and that he will accompany them, or that he may ride to a

neighbor's, or that a friend is coming to see him, and he will understand it all; but the moment that there is an attempt to communicate any thing that has not been shown him, or that he has not seen, the effort fails. He obtains, if not a confused, at least a very erroneous idea. He is, therefore, left very much to his own conceptions. That he has an idea of cause and effect, there is no doubt, from the recorded recollections of deaf-mutes concerning their days of ignorance. This idea is concrete in the sense that he seldom arrives at general conclusions, his judgment being exercised on particular cases that have fallen under his observation, and which he recognizes when they occur again. He knows that when it is cold he can obtain warmth by putting wood in the stove and lighting it; that if he leaves a pitcher of water out-of-doors on a cold night, it will freeze, and the pitcher will break; that if he goes out in the rain he will be wet; that if he falls he will be hurt. By observing an effect familiar to him, he also knows what has produced it. He recalls past scenes which have been a part of his experience, and he anticipates what will happen on the morrow when a particular pleasure is promised him. He has, therefore, the power of memory, of analogy, and of imagination. He has, moreover, the association of ideas; for, in his efforts to communicate, it is observed that one thing will suggest another, and, in his silent communings with himself, he will have a succession of thoughts, one arising from another. In all this exercise of mind, except when he is actually conversing with others, he does not employ any vehicle of thought, not even signs. This is the invariable testimony of all deaf-mutes whom I have questioned on this subject. *They think in images, and the signs they make grow out of and represent these images.*

Nor is this method of thought peculiar to deaf-mutes. The dreams which visit us in the hours of sleep are nothing more. The visions of inspired seers required careful subsequent effort to portray them in words. The poet reproduces, in the music of rhythm, the same ideal scenes that the painter presents to us on the canvas, and the converse is true that the painter is often the poet's best interpreter. It is thoughts without words that have immortalized Handel and Mozart



and Beethoven, and given to their stirring symphonies a power that eloquence often strives for in vain. The blast of the bugle is a more inspiriting call than the captain's "Forward!" and the light streaming on the banner a more cheering encouragement than any shouted words of hope. The journalist gives us descriptions of scenes and incidents which he has viewed, and succeeds in conveying to us correct conceptions, only by attaining that precision in the use of words which will enable the reader to form a distinct picture in his mind. The historian must carry his imagination back to the past, and, so to speak, lose himself in it, to convey to our minds any just conception of what *was*. It is this principle which gives such popularity to illustrated periodicals, and which makes the actor an educator to a certain class of minds. The etymological signification of the word *idea*—what is beheld—is of itself an indication that at least a large class of our thoughts are but pictures in the mind.

The expression, then, that we think in words, means nothing more than that long practice has enabled us to associate some form of words directly with our thoughts; for the thought is always antecedent to the expression.

In generalization, it is true, words greatly assist in keeping before us a certain pivotal idea, but even this idea is but a synthesis of many concretes instantaneously made in the subtle alchemy of the mind. No true thinker gives words the prominence in his mental laboratory, both as writer and student. He painfully endeavors to represent, by approximating symbols, thoughts to which he feels he can never give the exact expression, and he carefully analyzes, with patient toil, the words which others have presented as *their* embodiment of truth.

Educated deaf-mutes have furnished to us, by their recollections of the past, much that throws light upon the amount of knowledge they had acquired previous to the time when they were brought under systematic instruction.

The details and results of a searching inquiry into this subject are given in a paper on the "Notions of the Deaf and Dumb, especially on Religious Subjects," contributed by my venerable father Dr. H. P. Peet to the *Bibliotheca Sacra* of

July, 1855. To renew the investigation, for the sake of originality, even if I might hope to bring it to as complete and satisfactory an issue, would be a work of supererogation. I, therefore, avail myself of Dr. Peet's labors, so far as they illustrate my present theme.

"Few, if any, of these unfortunate children," says Dr. Peet, "seem ever to have reflected on the origin of the universe or the necessity of a first cause for the phenomena of Nature. As one of them expresses it, they 'thought it was natural' that the world should be as it is. Some even fancied that those whom they saw to be old had ever been so, and that they themselves would ever remain children" (or at least had not learned to anticipate a time of old age for themselves). "Those who had learned, by observation and testimony, the general law of progress from infancy to old age, supposed, if they attempted to think on the subject at all, that there had been an endless series of generations. But probably there are very few uninstructed deaf-mute children of ten or twelve who have reached such a point of intellectual development as even this idea implies. It is much easier to give to a deaf-mute, by means of rude and imperfect signs, the idea that there is some powerful being in the sky, than to explain or even hint that this being made the world. Hence it is that very few deaf-mutes have ever acquired, either from their own reflections or from the imperfect signs of their friends, any idea of the creation of the world, or even of the plants and animals on its surface. Nor need this surprise us, when we reflect that the most enlightened nations of antiquity had not mastered this great idea. Ovid, writing in the learned and polished era of Augustus, expressed the popular belief of his time in the theory that all things were produced by the due union of heat and moisture."

"Many deaf-mutes, however, whether from their own meditations, or from misunderstanding the signs of their friends, have acquired childlike ideas respecting the causes of certain natural phenomena; such as rain, thunder, and

<sup>1</sup> "Quippe ubi temperiem sumere humorque calorem  
Concipiunt; et ab his orientur cuncta duobus."

Metamorphoses, I., 8.



the motions of the heavenly bodies. Quite a number supposed that there were men in the sky who, at certain times, made themselves busy in pouring down water and firing guns. The notions of deaf-mutes on such matters are often amusing enough; but, when not derived from a misconception of the signs of their friends, are evidently formed in a spirit of analogy. . . . An English deaf-mute boy, observing that he could raise quite a strong wind with his mother's bellows, naturally concluded that the wind that sometimes blew off his cap in the street came from the mouth of a gigantic bellows. Neither does it seem that this belief was troubled by his inability to find the operator or the location of this bellows, for to one whose sphere of observation was so limited, and who could learn so little of the world beyond it from the testimony of others, the region beyond the circle of a few miles was as wholly unknown, and as open to the occupation of imaginary giants and engines and other figments of the imagination, as was ever the land of the Cimmerians to the Greeks, or the Fairy Land to the popular belief of the middle ages. Similar to this was the notion of a girl, who seems to have imagined that the plants which spring up annually in the fields and woods were like those in her mother's garden, planted and watered by 'some women,' an infantile conception, in which, however, may be traced the first germ of the old Greek notions respecting nymphs and dryads. . . .

"One lad, struck by the similarity between flour falling in a mill and snow falling from the clouds, concluded that snow was ground out of a mill in the sky. Others supposed that the men, with whom their imaginations, or the misconceptions of the signs of their friends, had peopled the sky, brought up water from the rivers or ponds and dashed it about through holes in the heavenly vault. The more general belief seems, however, to have been that there was a great store of rain and snow in the sky, a matter no more to be wondered at than the abundance of earth and water below. Some suppose thunder and lightning to be the discharge of guns or cannon in the sky; a notion the converse of that well-known one of the savages, who, when they first

met in battle a European armed with a musket, believed they had encountered a god armed with thunder and lightning. Others say they believed lightning to be struck from the sky by iron bars. They had doubtless observed the sparks struck by iron from stone."

Thus it is that human nature repeats its phenomena, and that deaf-mute children, left, by their inability to profit by the experience of their elders, in a prolonged infancy, exemplify, in their efforts to account for the phenomena of Nature, many of the fancies that prevailed in the infancy of society. The last idea cited bears a curious resemblance to the Homeric conception of Jupiter hurling the thunder-bolts forged by Vulcan.

In answer to the question whether they had any idea how the sun, moon, and stars, were upheld in the sky, the uniform reply was that they had never thought about it. "It seems as natural to children that those bodies should keep their places above us as that the clouds or the sky itself should. . . . The stars in the view of many were candles or lamps lighted every evening for their own convenience by the inhabitants of the sky, a notion very natural to those who had had opportunities of watching the regular lighting at night of the street lamps of a city. The moon was, to most of those whose answers are before us, an object of greater interest than any of the other heavenly bodies. One imaginative girl fancied that she recognized in the moon the pale but kind face of a deceased friend; others thought that she continually followed them and watched their actions." A few regarded the moon with fear, while others thought she loved them.

The answers to the question, "Had you any idea of the existence of the soul as something distinct from the body, and which might be separated from it?" were uniformly in the negative.

"It is remarkable," says Dr. Peet, "that only one, out of more than forty whose statements are before us, seems to have imbibed any of the popular superstitions respecting ghosts. If the misfortune of the deaf and dumb prevents them from learning much truth, it often protects them in most cases from receiving those early impressions of superstitious terror and folly which it is often so difficult to get rid of in later life."



To the question "What were your thoughts and feelings on the subject of death? Did you know that you must yourselves die?" Dr. Peet cites many interesting answers, which my limits compel me to omit. Their uniform tenor was to show that to the uneducated deaf-mute death is truly the king of terrors. Those who had not been taught the contrary by the signs of their friends, cherished the belief that they could evade its power and live on forever. "We have heard of a lad," he says, "who, having observed that people who died had taken medicine, resolved to abstain from medicine as well as other hurtful things, an example of prudence worthy of general imitation." Another had entertained the horrible suspicion that the doctor's business was to poison off the sick; reminding us that tribes of savages have sometimes risen in fury and murdered missionaries, because the sick to whom they had given medicine had died.

"So far as we can learn from their statements," says Dr. Peet, "none of the deaf and dumb have originated the idea of the existence of the soul after death, in a state separate from the body, and the attempts (unskilfully) made for this end, by many anxious parents, have at most given the child-like idea that the dead are taken bodily from their graves, or thrown bodily into a fire. The early impressions of certain German deaf-mutes, recorded by one of their number (O. F. Kruse, of Schleswig), were, that the bodies of the good remain uncorrupted in the grave, where they only slumber to be hereafter awakened, while those of the wicked rot and become the prey of worms. It is easy to understand that children who have never seen a corpse, except in the brief interval between death and burial, may suppose that the dead only sleep in the grave. One of the pupils in the New York institution had been haunted by the terrible idea that, should she die and be buried, she might awake in the grave, and would be unable to call for help."

The general testimony of the deaf and dumb is, that before instruction they never had any idea whatever of the object of public or private worship, some probably taking the weekly assemblage at church as being as much a matter of course as any other periodical event; while others, if they tried to think

about it, only added it to the long list of human actions which, in their darkened state, were incomprehensible to them. One or two seem to have made a shrewd guess at the secret motives of some outward professors, when they considered public worship as a recreation, and family prayer as a play; and the idea of another, that people met to do honor to the clergyman, might in some cases be pretty near the fact.

"To the same purport," says Dr. Peet, in summing up, "on all the points we have considered, is the testimony of many other deaf-mutes both in Europe and America. Nor have we ever learned of any well-authenticated case of a deaf-mute who gained any correct ideas on religious subjects, by his own unaided powers of observation and reflection. We feel authorized, by the evidence before us, to deny that any deaf-mute has given evidence of having any innate or self-originating ideas of a supreme being, to whom love and obedience are due, of a Creator, or of a Superintending Providence, of spiritual existence, or of a future state of rewards and punishments." And this is the testimony of all who know the deaf and dumb thoroughly.

Yet the readiness with which deaf-mutes, at an early stage of their instruction, apprehend these great truths, the unquestioning faith with which they receive them, and the eagerness with which they cling to the hope of immortality, and especially to the promise that in heaven the deaf shall hear and the dumb join in the everlasting song of praise, conclusively show that the Creator has implanted in these children of silence a capacity for religious sentiment as fully as in their brothers and sisters who hear. And though St. Paul says, "Faith comes by hearing," he only meant to those who *can* hear. Had he ever known an educated deaf-mute, a spectacle which the world never saw till centuries after the great apostle had finished his course, he would have admitted that faith might come in the fullest measure through signs alone.

In a moral point of view the uneducated deaf-mute presents features of a still more interesting character. The idea of consequences he certainly imbibes whenever the government exercised over him is unvarying whether for good or for evil. From certain acts he is deterred by his relation to certain per-



sons, and to other acts he is in the same way stimulated. Under judicious control he comes to associate in his mind a line of conduct with what produces pain, and another line of conduct with what produces pleasure. Out of this grows a sort of conscience which leads him to be sorrowful when he does certain things, and to be glad when he does the contrary. This conscience is entirely dependent upon the parent or other person to whom he is subjected. Given a good master, and he will be very likely to have a kind of moral sense that will be a safe guide in the life he leads, and will bring about habits which will be useful to him hereafter. Given a corrupt master, and the principle that in the former case would have resulted in leading him to be *good* will as certainly have the effect of making him *bad*. If the authority exercised be tyrannical, certain natures will rebel, and the most evil results will follow. If it be capricious, this moral sense will never exist. If no authority whatever be exercised at home, and he is left to his own devices, he will have as many consciences as there are persons he fears or desires to please. I have, in my mind, a boy now in the institution, whose moral education has been a work of peculiar difficulty. Though not deficient in intellect, easily pleased, and easily chagrined, no appeals to any of the higher motives seem to have the least effect upon him, not even an appeal to the affection borne him by a fond mother—alas! too fond. So far as emotion is concerned, he is not unlike Undine before she was endowed with a human soul.

From this it may be inferred that, by his own unaided uninformed intellect, and uninstructed nature, the uneducated deaf-mute does not arrive at the idea of what is really right or wrong, and is ignorant of general law, either human or divine. He may be obedient, diligent, affectionate, habitually honest, but it will be owing to the influence of kind and firm control and good example, *not* to the higher moral and religious motives that are addressed to children who hear. He is too often self-willed, passionate, prone to secret vices; but this unfavorable phase of character is generally chargeable to early injudicious indulgence, the example of evil companions, and the lack of those *higher* motives that are supplied by religious education. He is *suspicious*, because he

has been the butt of thoughtless companions. He lacks self-control, because he cannot, as well as others, appreciate the consequences of his actions. He *wishes*, as well as those who hear, to be *loved* and *respected*, and, like them, conceals his evil practices from those who he knows would disapprove of them. But he cannot distinguish between the approbation of the good, and the mere complaisance of the unthinking; is apt to mistake the laughter of the latter for applause; and, when he is thwarted in desires, the folly and criminality of which he cannot appreciate, he is apt to think himself the victim of an unjust discrimination and oppression.

The view that has been taken of the intellectual and moral condition of the uneducated deaf-mute seems to settle the question of his criminal responsibility. One who knows, and can know no more of law than what he can infer from the consequences which he has noticed are likely to follow from specific acts, who often mistakes his impulses for principles, and whose character is settled for him either by natural endowment or by the peculiar circumstances in which he may be placed, can hardly be considered as accountable in any ordinary sense of the term. Still, when he commits crime he imperils the safety of the community, and violates the sanctity of the law, whose interference must in some way be invoked.

The two great classes of crime, viz., crimes against property and crimes against person, have given rise to proceedings of a very curious and interesting character when the criminal arraigned has been an uneducated deaf-mute.

Under the first head, the crime with him usually takes the form of theft, never of fraud; though sometimes it occurs that in the indulgence of anger or revenge he will injure property to an extent that, if the offence were committed by a hearing person, would subject him to the pains and penalties of the law.

In some cases occurring in France, the plea was successfully advanced that a deaf-mute was not morally or legally responsible, and the criminals were dismissed, suffering only the detention before trial, which they probably regarded as the full punishment of their offence. They were perfectly aware that they did wrong, for they hid themselves to steal,



and hid what they had stolen. This, in itself, it may be said, hardly exhibits more proof of intellect than is displayed every day by the sheep-stealing cur; but the deaf-mute, however uneducated, always displays a keen appreciation of the rights of property—knows pretty clearly what belongs to himself, and what belongs to others; and, like children in general, is easily moved to bursts of passion by any interference with what he considers as belonging to himself. And that he steals with contrivance and in secret is a proof that he is aware that he will be punished if detected. For this class of offences, therefore, it would seem as though moral, if not legal, responsibility could be attributed to him, though his unfortunate condition should certainly move his judges to leniency in pronouncing sentence upon him. And this is the view that has prevailed in more recent cases.

There is, however, a different class of cases in which the law comes into collision with the private rights of property. For instance, in a recorded case, near Rodez, in France, officers were sent to a farm to seize property for debt. In so doing, they treated with roughness the peasant, whom they caught in the attempt to drive off his cow. The deaf-mute son of the latter, a vigorous youth of twenty, seeing, as he thought, the rights of property violated, fell upon the aggressors and soon put all three to flight. Summoned with his father before the tribunals for this grave offence against the law, he recognized in court his late antagonists, pointed them out as robbers, and was with difficulty restrained from renewing the chastisement he had inflicted on them. He carried with him the full sympathy of the public and of the jury, and was acquitted on the ground that, being entirely ignorant of the legal rights in the case, he had only obeyed one of the first laws of Nature in defending his father and his property.

The class of crimes against the person presents greater difficulty, mainly from the extreme punishment which the law inflicts upon the highest of these crimes. If human law had never assumed the high and solemn prerogative of taking human life, the question of moral responsibility would not have been invested with such interest and importance in a legal point of view. A punishment that is irreparable, and,

if erroneous, is in itself a great and irreparable wrong, startles the conscience, and leads it to demand indubitable authority for a punishment that is in no wise reformatory, and to welcome exceptions to the rule of life for life. This authority, and this rule of exceptions, are supposed to be found in the doctrine of moral responsibility and irresponsibility. It is assumed that the man who takes human life with premeditation, thereby forfeits his own, and knows beforehand that he does so, whereas he who strikes a blow in the sudden heat of passion, not intending to take life, is not responsible to the full extent of life for life if the blow proves fatal.

Another class of exceptions is that of idiots and maniacs, to whom guiding reason being denied by the act of God, they are held not to be responsible for their criminal acts, though the safety of society may demand that they be held in duress. The same principle has been naturally applied to the deaf and dumb; who, by the Roman code, being classed with idiots and the demented, in all the points of civil disability, denied the control of their own property in life, and precluded from altering its descent by will, were, by necessary consequence, classed with them also in the matter of criminal responsibility for criminal acts; being also, like them, subject to legal restraint when dangerous.

The cases in which uneducated deaf-mutes have been arraigned for murder are painfully numerous, considered in proportion to the number of this class of persons. The able and exhaustive treatise of Dr. H. P. Peet, on "The Legal Rights and Responsibilities of the Deaf and Dumb," gives the particulars of nearly a dozen such cases taken from European reports and journals, to which have since been added some in this country.<sup>1</sup>

<sup>1</sup> This valuable monogram was printed in the proceedings of the Fourth Convention of Instructors of the Deaf and Dumb, which is now very scarce. A reprint for private circulation is also quite exhausted. An imperfect copy appeared in one of the numbers of the *American Journal of Insanity* for the year 1856. It is especially valuable to the legal profession, for the full details it gives of the conflicting opinions of many lawyers and judges both in Europe and America; among other points, on the ability of an uneducated deaf-mute to make a contract or to give evidence in a court of justice, and on the mode of ascertaining his wishes and taking his testimony.

The cases of Jane Campbell in Scotland, and of Esther Dyson in England, uneducated deaf-mute women, each of whom was charged with the murder of her illegitimate child, can be found in "Beck's Medical Jurisprudence." In the former case, after much argument and many doubts, the majority of the court decided that the prisoner was capable of being put upon trial; but her counsel interposed the objection that she could not be tried till it was explained to her that she was at liberty to plead guilty or not; and, as no means could be found of explaining this to her, on this mere point of technicality, the trial was stayed. In the latter case, the prisoner was judged incapable of being tried and conducting her defence, and was remanded to close custody, as in the case of a lunatic, till the king's pleasure should be known.

In neither of these cases was the decision based upon the ground of want of moral responsibility, the difficulty lying in the inability of the prisoner to comply with the established forms of legal proceedings; but we have an interesting report of a German case reproduced in the *American Annals of the Deaf and Dumb* for January, 1871, in which the accused, Johann Schmidt, an uneducated deaf and dumb shoemaker, was held morally and legally unaccountable for having killed his employer with a shoemaker's knife. It was shown that the master was a man of violent and brutal character, and that the deaf-mute felt, or professed to feel, in fear for his own life. But his defence turned mainly on the question of responsibility. His counsel urged that, "in the case of a person fifteen years of age,<sup>1</sup> who is endowed with all his faculties, the law doubts whether he is accountable; but the accused, in respect to intellectual development and to responsibility, is not to be compared with a hearing person fifteen years of age. The laws are not known to the accused, and no one can be tried by laws which he does not know." This reasoning had the effect to secure the full acquittal of the prisoner, who, however, seems to have been quite intelligent for one of his class, and was even able to allege distinct-

<sup>1</sup> So in Germany. Under English common law, we think, fourteen.



ly, by signs, in his own defence, that, alarmed by the threatening gestures of his master, "dark night came upon his mind."

Other cases have been recorded in which deaf-mutes have, sometimes openly, sometimes lying in wait, murdered those who have offended them. Their advocates generally put in the plea of absence of responsibility, but in most cases, at least those under French law, the plea has been overruled, and the prisoner put upon his trial. His misfortune, however, almost invariably moves the jury and the court, if he is found guilty, to a recommendation of mercy. In France, where a verdict of "guilty, with extenuating circumstances," has the effect to save the life of the criminal, this verdict was rendered in all the cases of deaf-mute murderers which we have seen, though one or two were marked with circumstances of unusual atrocity. The fearful ignorance and neglected state of some uneducated deaf-mutes are justly considered extenuating circumstances when there are no others.

I will close this branch of the subject by a sketch of a recent case which has especially attracted my attention, from the fact that I was summoned to appear in it as an expert:

In Ulster County, in this State, a deaf-mute boy of mixed parentage, African on his mother's side only, born in a poor-house, instead of being sent, as he might have been, to an institution, where public provision had been made for the education of himself as well as all his fellows in misfortune, was bound, during his minority, to a wealthy farmer. Certainly a great wrong was inflicted on Levi Bodine (the name given the boy by his mother, a name he himself never heard or knew), in depriving him of the means of education. And great wrong, sooner or later, generally entails severe retribution.

The boy's employer was a respectable and intelligent man, but did he ever seriously reflect that he had assumed a very high and solemn responsibility in taking charge of an immortal soul—giving color and shape by his management, or want of management, to the whole future of a lad whose strong and passionate nature might, under skilful and judicious care, have been trained to form an affectionate friend, a

worthy and useful citizen, and a sincere worshipper of the Most High? Unable to reason with his deaf-mute apprentice, or to appeal to his better feelings, his employer seems to have contented himself with constant appeals to personal authority.

One day Mr. Hasbrouck insisted on making the deaf-mute do some work which he did not wish to do. According to the statement of the latter, made in signs to the writer, and one of his colleagues who accompanied him, the master used violence to that end, and the mute, like a half-tamed lion, roused to sudden fury, slew his supposed oppressor with an axe, which he was using at the time.

We are told that great indignation was aroused in the neighborhood by this murder of a respected citizen, on what seemed slight provocation. The deaf-mute could not tell his side of the story, and there was no one to tell it for him.

When the deaf-mute homicide was arraigned before a jury empanelled to test the condition of his mind, his counsel presented the pleas of want of capacity to be tried, which they found in their books had been presented in similar cases in England.

At the opening of the trial, the prisoner's counsel claimed that he was unable to communicate with his client in any way; that it was impossible to convey to his mind the different degrees of homicide; that there was no way to inform him of his right to challenge jurors; that he could not be sworn in his own behalf, and that the law provided that no man should be tried who was not, at the time of the trial, able to understand the details of the case and prepare a suitable defence.

The district attorney, on the other hand, said that the prisoner's sanity was undisputed; there was no malformation of the brain; the neighbors and acquaintances of the accused were able to communicate with him by signs and make themselves understood. After hearing the arguments and the testimony of neighbors and the experts, Judge Hogeboom stopped the proceedings, expressing the opinion that it was of no use to send the case to a jury, and that, before the prisoner could be tried, he should be instructed. The prisoner

was remanded to the jail, but the sheriff took no pains to carry out the recommendation of the judge, perhaps from the conviction that no teacher could be found to instruct the poor deaf-mute, merely to prepare him for the gallows.

At a subsequent term of the court, the case was again brought up for trial, this time before Judge Boardman. The jury disagreed, and Bodine was left in jail. But, being quite docile and harmless when kindly treated, and showing no disposition to escape, as he had no home to go to, he was soon allowed liberty to go out by day, returning to his prison quarters at night.

There is not the least probability that he will again be brought up for trial. Meantime, he is left wholly without instruction, even the simplest religious instruction, for the rules of the institution very properly preclude any one from being an inmate who has been guilty of serious crime against the person, and there is no one in the neighborhood of the jail qualified to undertake the instruction of a deaf-mute.

This recent case in our own vicinity, added to many more remote in time and place, points to conclusions which cannot be evaded. One is the duty which society owes to itself, not only of providing for the education of all deaf-mutes, but of making it imperative upon the parent or guardian, in each case, to secure to the child laboring under this misfortune the benefits within his reach. To him it implies vastly more than the same term used in connection with the hearing child, for the latter can never be said to be uneducated in the sense in which the deaf-mute is uneducated. To the hearing child every word spoken in his presence is a means of intellectual development. Every person, literate or illiterate, with whom he comes in contact, is for the time his conscious or unconscious teacher. In fact, school gives him so small a portion of the knowledge he possesses that it may be considered rather the regulator than the source of his attainments. In learning to read and write he simply acquires the ability to recognize and express, in alphabetical forms, a language he already knows; and in studying the other ordinary branches, if educated, he but learns a few principles which account for facts of which he is often already cognizant. And, if he never went



to school, he would, under the influences prevailing in a good home or a virtuous and intelligent community, learn all that was necessary to enable him to lead a life of rectitude here, and secure the hope of salvation hereafter. To the deaf-mute, however, education means *every thing*; it means home, and hope, and happiness. It means self-control and virtue. It means the full and free exercise of all the rights, immunities, and privileges, which belong to humanity. Understanding and acknowledging his obligations to society and to God, he becomes amenable to law; and, if placed in circumstances in which his character or his conduct comes under the review of the ministers of justice, he is able, either by direct verbal communication, or by signs in which he can give full expression to his thought through a skilful interpreter, to conduct his defence and obtain all the consideration that is his due.

The State of New York has made full provision for the instruction of all deaf-mutes within its limits between the ages of six and twenty-five, and grants to those who commence at the earlier age sufficient time to make attainments which, when the intelligence of the individual is equal to it, fall little if at all short of those made by students in our higher seminaries of learning.

With a liberality, too, unequalled in this country, it has, in making this provision, given a choice of method and even of religion.

As the law now stands, all officers, charged with the care of those who, on account of poverty, are supported at the public expense, are obliged to place the deaf-mutes under their care at some one of the institutions for this class which the State has recognized. I would, however, that it should go further, and make it the duty of certain designated public officers to seek out all uneducated deaf-mutes and require that they be educated.

Another of the conclusions to which we are led is, that the treatment of criminal cases, in which a deaf-mute is defendant, should be settled by statute.

In every case that now occurs, the prosecution argues, from the intelligence the deaf-mute manifests in various ways, such as his ability to communicate by signs to a certain ex-

tent, or to obey given directions, and also from the indications he gives of consciousness of guilt, that he has moral and legal responsibility, and therefore should be brought to trial and punishment. The defence argues, on the contrary, that his condition as an uneducated deaf-mute, if acknowledged, being *prima-facie* evidence of insanity within the meaning of the law, he cannot be put upon trial even to ascertain his mental condition. If the court fails to sustain the defence in its assumption, there follows a long argument as to which side must bear the burden of proof, in which so much doubt is raised by conflicting opinions that, as occurred in the case of Levi Bodine, in which two juries were empanelled under different judges, one judge decides that it rests with the prosecution, and the other that it rests with the defence.

As it seems to me, both the prosecution and the defence are in error: the former, as to the fact that an uneducated deaf-mute can be considered responsible in any such sense that the law may visit his act with punitive treatment; the other, that he is to be classed with either the idiot or insane. Mentally and morally he is much more in the condition of a child, though his physical powers may be those of a man. And yet it may be conceived that both sides can base, if not *sound*, at least *plausible* arguments on the law as it stands. Whether this be so or not, the judge finds it difficult to expound the law in such a manner as to make it clear to the jury; and the jury, deliberating on a case which is novel in their experience, either yield to sympathies which are touched by the helpless condition of the prisoner, or terminate the case by a disagreement in their verdict.

Law is sustained by sanctions. But sanctions are worthless in the case of a human being who can never learn any thing concerning them. An uneducated deaf-mute might come under the condemnation of the law and be punished, and yet his case could have no effect upon any other uneducated deaf-mute in deterring him from the commission of crime.

It would be a very simple and easy rule of law that the guilt or innocence of an uneducated deaf-mute should be established so as to amount to a strong probability, by testimony

entirely independent of himself, and that, if he be guilty, he should be provided with a place of detention near some institution for the deaf and dumb, and receive instruction daily from such teachers as could be detailed therefrom ; that, if innocent, he should be sent to the institution itself to participate in its benefits ; and that, in either case, so soon as he was fitted by education to take his part in the great drama of life, he should be left free to do so, untrammelled by the fact that, at a time when he had not reached a point where he could be held morally and legally responsible, he had been brought face to face with violated law.

If this distinguished Society be induced, by the arguments that have been presented this evening, to urge upon the Legislature the enactment of such a statute, a practical result will have been secured of more value than the interest which necessarily attaches to the discussion of mental phenomena, however striking or peculiar.







